

\*E-FILED 05/22/08\*

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

MICHELLE T. WAHL,

Plaintiff,

v.

AMERICAN SECURITY INSURANCE COMPANY,

Defendant.

NO. C 08-00555 RS

**ORDER GRANTING LEAVE TO  
FILE SUR-REPLY AND LEAVE  
TO RESPOND**

Plaintiff's motion filed May 14, 2008 seeking leave to file a sur-reply is granted. Although it is questionable whether the arguments and citations in defendant's reply brief were "new" matter such that a sur-reply was warranted, the material presented in the sur-reply could have properly been presented at oral argument. Given that those arguments were in fact the subject of extensive discussion at oral argument, it is in the interests of justice to permit the sur-reply to be filed. The proposed sur-reply submitted with the motion for leave to file is hereby deemed filed; plaintiff need not submit another copy.

Defendant's request for leave to file a written response to the sur-reply is also granted. No later than May 30, 2008, defendant may submit an additional brief, not to exceed three pages in

length, addressing the sur-reply. Defendant should bear in mind that to a significant degree it has already addressed the merits of the sur-reply arguments as part of its opposition to the motion for leave to file the sur-reply.

This matter is separate and distinct from the leave granted at the hearing to submit certain other additional material, and does not modify or affect that oral order.

IT IS SO ORDERED.

Dated: May 22, 2008

  
RICHARD SEEBORG  
United States Magistrate Judge